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**FILED**

NOV 29 1995

**HOWARD HANSON**  
MARIN COUNTY CLERK  
by J. Steele, Deputy

10 **SUPERIOR COURT OF THE STATE OF CALIFORNIA, COUNTY OF MARIN**

**RECEIVED**

NOV 29 1995

11 CHURCH OF SCIENTOLOGY INTERNATIOAL

Case No. 157 680

**HUB LAW OFFICES**

12 Plaintiff,

**ARMSTRONG'S  
REQUEST FOR JUDICIAL NOTICE IN SUPPORT  
OF REPLY IN SUPPORT OF MOTION FOR  
RECONSIDERATION**

13 vs.

14 GERALD ARMSTRONG

Date: December 1 1995

Time: 9:00 A.M.

Dept: One (1)

15 Defendant

16 Pursuant to Evidence Code sections 452 and 453, defendant Gerald Armstrong requests that  
17 the Court take judicial notice of the following documents:

18 A: Declaration of Kenneth Long in Support of Plaintiff's Reply In Support of Motion for  
19 Summary Adjudication of the Fourth, Sixth, and Eleventh Causes of Action of Plaintiff's Second  
20 Amended Complaint.

21 B. Memorandum Opinion filed November 28, 1995 in *Religious Technology Center v. Lerma, The*  
22 *Washington Post, et al.* United States District Court, Eastern District of Virginia, Case No. 95-  
23 1107-A.

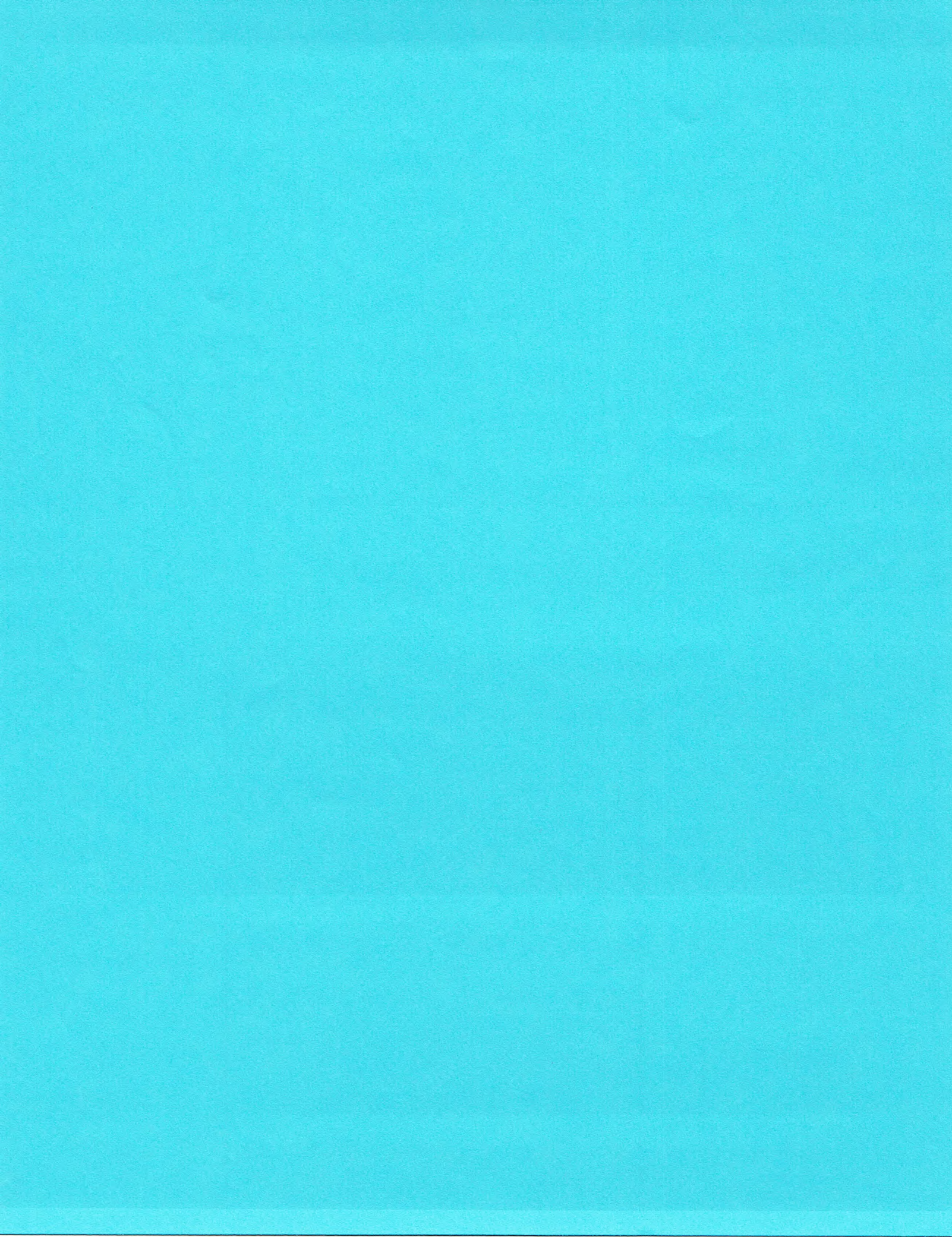
24 C. Plaintiff Church of Scientology International's Notice of Motion and Motion to Strike  
25 Defendant Gerald Armstrong's Amended Answer filed in U.S. Bankruptcy Court,  
26 Northern District of California, Case No. 95-10911 aj.

27 DATED: November 29, 1995

HUB LAW OFFICES

By: 

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18 Attorneys for Plaintiff  
19 CHURCH OF SCIENTOLOGY  
20 INTERNATIONAL

RECEIVED

JAN 28 1995

HUB LAW OFFICES

21 SUPERIOR COURT OF THE STATE OF CALIFORNIA  
22 FOR THE COUNTY OF MARIN

23 CHURCH OF SCIENTOLOGY  
24 INTERNATIONAL, a California not-for-profit  
25 religious corporation,

26 Plaintiff,

27 vs.

28 GERALD ARMSTRONG; DOES 1 through 25,  
inclusive,

Defendants.

) CASE NO. 157 680

) [CONSOLIDATED]

) DECLARATION OF KENNETH D.  
) LONG IN SUPPORT OF  
) PLAINTIFF'S REPLY IN SUPPORT  
) OF MOTION FOR SUMMARY  
) ADJUDICATION OF THE  
) FOURTH, SIXTH AND ELEVENTH  
) CAUSES OF ACTION OF  
) PLAINTIFF'S SECOND AMENDED  
) COMPLAINT

) DATE: January 27, 1995  
) TIME: 9:00 a.m.  
) DEPT: 1

) TRIAL DATE: May 18, 1995

1 I, KENNETH D. LONG, hereby state:

2 1. I am a staff member in the Legal Bureau of the Church of Scientology International,  
3 in which I perform the functions of a paralegal. From 1980 through June, 1992, I was a staff  
4 member of the Church of Scientology of California and worked as a paralegal in the Legal  
5 Bureau of that Church.

6 2. Since August 1982, I have worked in a paralegal capacity on legal matters relating to  
7 Gerald Armstrong. Through the course of this work, I have studied the documents pertaining to  
8 legal matters involving Gerald Armstrong, have assisted counsel in the taking of depositions of  
9 Gerald Armstrong, and have worked on cases and trials either directly involving Gerald  
10 Armstrong or in which Armstrong testified. I am familiar with the proceedings in the case of  
11 Church of Scientology vs. Gerald Armstrong, L.A.S.C. Case No. C420153. I am also familiar  
12 with the press and media attention which Armstrong obtained prior to the settlement. Further, I  
13 am familiar with the releases signed by Vicki and Richard Aznaran. It is based on the above  
14 knowledge and experience that I make this declaration and if called upon to do so, I could and  
15 would competently testify thereto.

16 3. At the time that the Aznarans signed release agreements, they were employees of a  
17 Church-related entity, and had decided to leave that employment. They had not publicly  
18 attacked any Church of Scientology, had not testified on behalf of any anti-Church litigant, and  
19 were not themselves anti-Church litigants at the time that they signed the releases.

20 4. At the time the Church settled with Armstrong, Armstrong was both an anti-Church  
21 litigant and a professional witness against the Church in other litigation. He was also a  
22 paralegal who worked extensively on anti-Church cases, and a self-designated public relations  
23 man who gave interviews to many reporters for sensationalist journals.

24 5. Prior to December 1986, Armstrong had testified in 15 cases, including his own, for  
25 a total of 28 trial days, attacking the Church of Scientology and related entities and individuals.

26 6. Prior to December, 1986, Armstrong had been deposed for 19 days, and had executed  
27 28 declarations in 15 cases, attacking the Church of Scientology and related entities and  
28 individuals.



IN THE UNITED STATES DISTRICT COURT FOR THE  
EASTERN DISTRICT OF VIRGINIA  
Alexandria Division

NOV 28  
CLERK

RELIGIOUS TECHNOLOGY CENTER )

Plaintiff, )

v. )

Civil Action No.95-1107-A

ARNALDO PAGLIARINA LERMA, )  
DIGITAL GATEWAY SYSTEMS, )  
THE WASHINGTON POST, )  
MARC FISHER, and )  
RICHARD LEIBY, )

Defendants. )

MEMORANDUM OPINION

Before the Court is the Motion for Summary Judgment filed by defendants, The Washington Post, and two of its reporters, Marc Fisher and Richard Leiby (hereinafter referred to collectively as "The Post"). A court may grant summary judgment "only when there is no genuine issue of material fact and the moving party is entitled to judgment as a matter of law." Miller v. Leathers, 913 F.2d 1085, 87 (4th Cir. 1990) (citing Fed. R. Civ. P. 56(c)). In ruling on such motions, the court must construe the facts and all inferences drawn from those facts in favor of the non-moving party. Charbonnages de France v. Smith, 597 F.2d 406, 414 (4th Cir. 1979). Having performed this analysis, the Court finds that summary judgment should be entered in favor of the defendants.

1. UNDISPUTED FACTS

The essential facts are not in dispute. In 1991, the Church of Scientology sued Steven Fishman, a disgruntled former member of the Church of Scientology, in the United States District Court for the Central District of California. Church of

Scientology Int'l v. Fishman, No. CV 91-6426. On April 14, 1993, Fishman filed in the open court file what has come to be known as the Fishman affidavit, to which were attached 69 pages of what the Religious Technology Center ("RTC") describes as various Advanced Technology works, specifically levels OT-I through OT-VII documents. Plaintiff claims that these documents are protected from both unauthorized use and unauthorized disclosure under the copyright laws of the United States and under trade secret laws, respectively.

In California, the RTC moved to seal the Fishman affidavit, arguing that the attached AT documents were trade secrets. That motion was denied and the Ninth Circuit upheld the district court's decision not to seal the file. Church of Scientology Int'l v. Fishman, 35 F.3d 570 (9th Cir. 1994). The case was remanded for further proceedings and the district court again declined to seal the file, which remained unsealed until August 15, 1995.

Defendant Arnaldo Lerma, another former Scientologist, obtained a copy of the Fishman affidavit and the attached AT documents. Lerma admits that on July 31 and August 1, 1995, he published the AT documents on the Internet through defendant Digital Gateway Systems ("DGS"), an Internet access provider. RTC, which regularly scans the Internet, discovered the publication of documents and on August 11, 1995, warned Lerma to return the AT documents and not publish them any further. After Lerma refused to cooperate, RTC obtained a Temporary Restraining Order prohibiting Lerma from any further publication of the documents and a seizure



warrant which authorized the United States Marshal to seize Lerma's personal computer, floppy disks and any copies of the copyrighted works of L. Ron Hubbard, the author of the AT documents

During the same time period, on or about August 5 or 6, 1995, Lerma sent a hard copy of the Fishman affidavit and AT attachments to Richard Leiby, an investigative reporter for The Washington Post. On August 12, 1995, counsel for RTC discovered this disclosure and approached The Post, which was told that the Fishman affidavit might be stolen. In response to the RTC's representations, The Post returned the actual copy which Lerma had given it. However, The Post had by then learned that a copy of the same Fishman affidavit was available in the open court file in the United States District Court for the Central District of California. On August 14, 1995, The Post sent Kathryn Wexler, a news aide stationed in California, to that court to obtain a copy of the Fishman affidavit. The Clerk's office made a copy for Wexler, who then mailed it to Washington. Although it is undisputed that RTC staff members had been checking that file out and holding it all day to prevent anyone from seeing it, the file was not sealed and obviously was available, upon request, to any member of the public who wished to see it.

The day after The Post obtained its copy of the Fishman affidavit, the RTC applied for a sealing order and the trial judge ordered the file sealed. However, there is no evidence in the record that the judge ordered The Post to return the copy made by the Clerk's office or that any kind of a restraining order was

issued by that court against The Post.

Five days later, on August 19, 1995, The Post published a news article, entitled "Church in Cyberspace: Its Sacred Writ is on the Net. Its Lawyers are on the Case," written by defendant Marc Fisher. In that article, RTC's lawsuit against Lerma and the seizure of his computer equipment were discussed, as was the history of Scientology litigation against its critics and the growing use of the Internet by Scientology dissidents. The article included three brief quotes (totalling 46 words) from three of the AT documents. On August 22, 1995, the RTC filed its First Amended Verified Complaint for Injunctive Relief and Damages in which it added The Washington Post and its two reporters, Fisher and Leiby, as additional defendants. A Second Amended Verified was later filed and is now the subject of this summary judgment motion.

## II. THE COPYRIGHT CLAIM

Although the Court has serious reservations about whether the AT documents at issue in this litigation are properly copyrighted, for the purposes of this motion, the Court assumes that the RTC holds properly registered, valid copyrights for the AT documents attached to the Fishman affidavit.

The Post does not deny that it copied the AT documents and quoted from them. It argues, however, that this copying and these quotations fall squarely within the "fair use" exception. Thus, the dispositive issue as to the copyright claim is whether or not The Post's use of the AT documents falls within the fair use exception to the copyright law. Under that exception, "the fair

use of a copyright ... for purposes such as criticism, comment, news reporting ... or research, is not an infringement of copyright." 17 U.S.C.A. § 107 (West Supp. 1995) (emphasis added). As the Supreme Court has held "fair use is a mixed question of law and fact." Harper & Row Publishers Inc. v. Nation Enters., 471 U.S. 539, 560 (1985). In the instant case, the Court finds no material facts in dispute; therefore, the issue can be resolved as a matter of law.

At the outset of its opposition, the RTC argues that because the fair use doctrine is an equitable one, The Post should not be allowed to rely on this defense because of unclean hands. Specifically, the RTC points to The Post's failure to disclose that it had made several copies of the Fishman affidavit. In an affidavit signed on September 26, 1995, Mary Ann Werner, a Post Vice President and counsel, averred that "only one copy of that [Fishman] declaration has been made." In fact, through discovery RTC has learned, and The Post does not dispute, that other copies were made. Wexler admits that she made an additional copy of the materials received from the Clerk's office. She sent that copy to Washington as well to ensure that Washington got a copy. A second copy was created, not by copying the Fishman affidavit which had been obtained in California, but by down loading a copy off the Internet. The Post argues persuasively here that the presence of the AT documents on the Internet was part of their very news worthiness and that making this copy was an act of legitimate news gathering.

A third copy of the AT documents was generated after Lerma sent a duplicate of the Fishman affidavit to Leiby via e-mail. That e-mail was copied to a disk in response to a demand by RTC's counsel on August 12, 1995, that The Post secure any materials it had been sent by Lerma. (Second Werner Decl. §§ 4-5).

None of these acts of copying strike this Court as constituting unethical behavior and the Court is satisfied from her second declaration that Ms. Werner did not mislead the Court or counsel in referring to one copy. In any case, the Court agrees with The Post that the issue of unclean hands is a weak attempt by RTC to avoid the real issue of fair use.

In determining whether the use of a copyrighted work is fair use and therefore not an infringement, the Court must consider four factors:

1. the purpose and character of the use, including whether such use is of a commercial nature or is for nonprofit educational purposes;
2. the nature of the copyrighted work;
3. the amount and substantiality of the portion used in relation to the copyrighted work as a whole;
4. the effect of the use upon the potential market for or value of the copyrighted work.

The fact that a work is unpublished shall not itself bar a finding of fair use if such finding is made upon consideration of all the above factors.

17 U.S.C.A. § 107 (West Supp. 1995). These four statutory factors may not "be treated in isolation, one from another. All are to be explored, and the results weighed together, in light of the

purposes of copyright." Campbell v. Acuff-Rose Music, Inc., 114 S. Ct. 1164, 1170-71 (1994). The interplay of the four factors is recognized elsewhere as well. See, e.g., Sony Corp. of America v. Universal Studios, Inc., 464 U.S. 417, 449-450 (1984) (reproduction of entire work "does not have its ordinary effect of militating against a finding of fair use" as to home videotaping of television programs); Harper & Row, Publishers, Inc. v. National Enterprises, 471 U.S. 539, 564 (1985) ("[E]ven substantial quotations might qualify as fair use in a review of a published work or a news account of a speech" but not in a scoop of a soon-to-be-published memoir). Thus, we may not evaluate any single fair use factor in isolation.

As to the first factor, the purpose and character of the use, there is no evidence in this record that The Post copied the AT documents for any purposes other than news gathering, news reporting and responding to litigation. Although the RTC has argued that The Post harbors some animus towards Scientology, an unbiased observer would conclude that the Church of Scientology and its treatment of critics is a newsworthy subject about which The Post is permitted to investigate and report. There is no evidence that The Post was trying to "scoop" the RTC in quoting the AT documents or trying to avoid payment of a royalty, conduct to which other courts have looked in finding that a media organization violated copyright. Harper & Row Publishers, Inc. v. National Enterprises, 471 U.S. 539 (1985); Iowa State University Foundation, Inc. v. American Broadcasting Co., Inc., 463 F. Supp. 902

(S.D.N.Y. 1978).

Under the second factor, the scope of the fair use doctrine is greater with respect to factual works than creative or literary works. Hubbard's works are difficult to classify and courts dealing with this issue have differed in their conclusion. As the Second Circuit stated in New Era Publications Int'l v. Carol Publishing Group, 904 F.2d 152, 159 (2d Cir.), cert. denied, 111 S. Ct. 297 (1990), "reasonable people can disagree over how to classify Hubbard's works." However, that court also concluded that the works "deal with Hubbard's life, his views on religion, human relations, the Church, etc. -- [and] are more properly viewed as factual or informational." Id. at 157. The United States District Court for the Southern District of California is of another view, however. In Bridge Publications, Inc. v. Vien, 827 F. Supp. 629, 636 (S.D. Cal. 1993), the court stated that "[t]he undisputed evidence shows that L. Ron Hubbard's works are the product of his creative thought process, and not merely informational."

However, in this litigation the RTC has characterized the AT documents essentially as training materials. Therefore, this Court concludes that despite their obtuse language the AT documents are intended to be informational rather than creative and, therefore, that a broader fair use approach is appropriate.

To evaluate the third factor, which essentially requires making a qualitative as well as quantitative analysis of the use made of the work, the three quotes need to be read in the context of the article. The first and longest quote is obviously included

merely as an example of the obtuse language used in the AT documents. No fair-minded reader could possibly construe this quote otherwise.

Most of the 103 pages of disputed texts from the Fishman file are instructions for leaders of the OT training sessions. They are written in the dense jargon of the church. 'If you do OT IV and he's still in his head, all is not lost, you have other actions you can take. Clusters, Prep-Checks, failed to exercise directions.'

The second quote describes how in "one high-level OT session trainees are asked to pick an object 'wrap an energy beam around it' and pull themselves toward the object." The last quote occurs in the very next sentence which describes how trainees are to "be in the following places--the room, the sky, the moon, the sun." These underlined words comprise the total of the copyrighted materials quoted.

The RTC argues that where quotes, although fragmentary, are of "significant material," even de minimis copying infringes. It then bootstraps this argument by claiming that because Fisher chose to include these three quotes in his article, the quoted language must necessarily be significant. Under this reasoning, no one, let alone a newspaper, could ever quote from copyrighted materials without fear of being hauled into court for infringement because any quote would be deemed significant. To accept this argument would essentially destroy the fair use doctrine. It also clearly is unsupported by the facts because as discussed above the three quotes, read in context of the entire article, are offered solely as illustrations of the author's claims about Scientology. They

are not intended to offer a complete definition of the Scientology religion or to capture the total essence of what it means to be a Scientologist.

Lastly, we must look at the effect of The Post's use upon the potential market for or value of the copyrighted work. Although the RTC claims it has demonstrated an enormous effect upon its potential market, a fair view of the record discloses no evidence of any economic exploitation by The Post of RTC's copyrighted material. As The Post cogently argues, no follower of Scientology could possibly be satisfied by these three random fragments quoted in its article so as to bypass the complete regime of indoctrination.

Although both sides have raised numerous additional issues, the essential analysis for the copyright claim comes down to these four factors. Based on this analysis, we find for the defendants. RTC properly argues that the mere existence of a copyrighted work in an open court file does not destroy the owner's property interests in that work. In the same way, the placement of a copyrighted book on a public library shelf does not permit unbridled reproduction by a potential infringer. However, RTC cannot selectively avail itself of only a segment of the copyright law. With the preservation of copyright protection invariably comes the fair use exception, and on that ground The Post's actions are proper.

### III. ATTORNEY'S FEES

Because The Post has been found to be the prevailing party on



the copyright claim, it qualifies for an award of attorney's fees and litigation expenses. The RTC opposes such an award. Whether to award such fees is a matter left to the Court's discretion. Egerty v. Fantasy, Inc., --U.S.--, 114 S. Ct. 1023, 1033 (1994). In deciding the appropriateness of a fee award, the Court should consider the motivation of the plaintiff in bringing the action for copyright infringement and the extent to which plaintiff's position is reasonable and well-grounded in fact and law.

On the first issue, the Court finds that the motivation of plaintiff in filing this lawsuit against The Post is reprehensible. Although the RTC brought the complaint under traditional secular concepts of copyright and trade secret law, it has become clear that a much broader motivation prevailed--the stifling of criticism and dissent of the religious practices of Scientology and the destruction of its opponents. L. Ron Hubbard, the founder of Scientology, has been quoted as looking upon the law as a tool to

[h]arass and discourage rather than to win. The law can be used very easily to harass and enough harassment on somebody who is simply on the thin edge anyway, well knowing that he is not authorized, will generally be sufficient to cause his professional decease. If possible, of course, ruin him utterly.

(Declaration of Mary Ann Werner, Attachment A, at C5; see also The Post's reply brief at p. 24, note 23).

The context and extent in which The Post copied and quoted from the AT documents was so de minimis that this Court finds that no reasonable copyright holder could have in good faith brought a copyright infringement action. Although there are limits beyond

which the media may not go, even in the interests of news gathering and reporting, this case does not come anywhere near those limits. Therefore, an award of reasonable attorneys' fees is appropriate and granted.

#### IV. MISAPPROPRIATION CLAIM

To prove misappropriation of a trade secret, the RTC must show (1) that it possessed a valid trade secret, (2) that the defendant acquired its trade secret, and (3) that the defendant knew or should have known that the trade secret was acquired by improper means. Trandes Corporation v. Guy F. Atkinson, 996 F.2d 655, 660 (4th Cir. 1993), cert. denied, -- U.S. --, 114 S.Ct. 443 (1993).

The Post argues persuasively that the AT documents were no longer trade secrets by the time The Post acquired them. They point to the following undisputed facts. First, the Fishman affidavit had been in a public court file from April 14, 1993 until August 15, 1995, for a total of 28 months. Although RTC has shown that it went to extraordinary efforts to control access to that file by having church members sign out the file and keep it in their custody at the courthouse, the file nevertheless was an open file, available to the public. The Post was able to obtain a copy of the Fishman affidavit without any difficulty, by merely asking the Clerk of the court to copy it. Thus, having been in the public domain for an extensive period of time, these AT documents cannot be deemed "trade secrets." Kewanee Oil Co. v. Bicron Corp., 416 U.S. 470, 484 (1974).

Of even more significance is the undisputed fact that these

documents were posted on the Internet on July 31 and August 1, 1995. (Lerma Affidavit). On August 11, 1995, this Court entered a Temporary Restraining Order among other orders which directed Lerma to stop disseminating the AT documents. However, that was more than ten days after the documents were posted on the Internet, where they remained potentially available to the millions of Internet users around the world.

As other courts who have dealt with similar issues have observed, "posting works to the Internet makes them 'generally known'" at least to the relevant people interested in the news group. Religious Technology Center v. Netcom On-Line Communications Services, Inc., No. C. 95-20091 RMW (N.D. Cal.) Slip Opinion entered 9/22/95 at 30. Once a trade secret is posted on the Internet, it is effectively part of the public domain, impossible to retrieve. Although the person who originally posted a trade secret on the Internet may be liable for trade secret misappropriation, the party who merely down loads Internet information cannot be liable for misappropriation because there is no misconduct involved in interacting with the Internet.

Even if one were to assume that the AT documents are still trade secrets, under Virginia law, the tort of misappropriation of trade secrets is not committed by a person who uses or publishes a trade secret unless that person has used unlawful means, or breached some duty created by contract or implied by law resulting from some employment or similar relationship. Smith v. Snap-On Tools Corp., 833 F.2d 578, 581 (5th Cir. 1988); Aerospace Am., Inc.

v. Abatement Tech., Inc., 738 F. Supp. 1061, 1071 (E.D. Mich. 1990).

It is the employment of improper means to procure the trade secret, rather than the mere copying or use, which is the basis of [liability]. . . . Apart from breach of contract, abuse of confidence or impropriety in the means of procurement, trade secrets may be copied freely as devices or processes which are not secret.

Trandes Corporation v. Guy F. Atkinson Company, 996 F.2d at 660, (quoting the Restatement (First of Torts)) (emphasis in original). The Trandes court notes that abuse of confidence or impropriety in the means of procurement represented the "essential element" and the "core" of a misappropriation claim. Id.

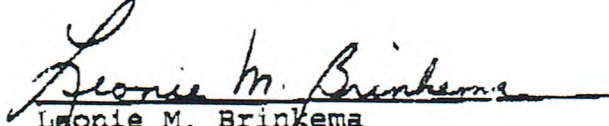
The RTC claims that because The Post was on notice of the RTC's allegations that the AT documents were stolen and were both trade secrets and unpublished copyrighted works, The Post was under a legal obligation not to copy or use the documents. This Court knows of no law which required The Post to sit on its hands and do no further investigation into what was obviously becoming a newsworthy event and newsworthy documents. The RTC's allegations are still just allegations. The very court from which the Fishman affidavit was obtained still has under advisement the issue of whether the AT documents are trade secrets. Although The Post was on notice that the RTC made certain proprietary claims about these documents, there was nothing illegal or unethical about The Post going to the Clerk's office for a copy of the documents or downloading them from the Internet.

Because there is no evidence that The Post abused any

confidence, committed an impropriety, violated any court order or committed any other improper act in gathering information from the court file or down loading information from the Internet, there is no possible liability for The Post in its acquisition of the information. This is true regardless of the documents status as trade secrets. As for the disclosure of the information. The Post did nothing more than briefly quote from publicly available materials. These acts simply do not approach a trade secret misappropriation, and, therefore, summary judgment must be entered for the defendants.

The Clerk is directed to forward copies of this Memorandum Opinion to counsel of record.

Entered this 28<sup>th</sup> day of November, 1995.

  
Leonie M. Brinkema  
United States District Judge

Alexandria, Virginia



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 11 (213) 960-1936

12 Attorneys for Creditor  
 13 CHURCH OF SCIENTOLOGY INTERNATIONAL

14 UNITED STATES BANKRUPTCY COURT

15 NORTHERN DISTRICT OF CALIFORNIA

16	In re	)	CASE NO. 95-10911 aj
17		)	
18	GERALD ARMSTRONG,	)	Chapter 7
19		)	
20	Debtor	)	Adv. No. 95-1164
21		)	
22		)	PLAINTIFF CHURCH OF
23		)	SCIENTOLOGY
24	<u>CHURCH OF SCIENTOLOGY</u>	)	INTERNATIONAL'S NOTICE
25	INTERNATIONAL, a California non-	)	OF MOTION AND MOTION TO
26	profit religious corporation,	)	STRIKE DEFENDANT GERALD
27		)	ARMSTRONG'S AMENDED
28		)	ANSWER
29	Plaintiff,	)	
30		)	[B.R. 7008; F.R.C.P.
31		)	8(b), (c), (e); B.R.
32	v.	)	7012(b); F.R.C.P.
33		)	12(f)]
34		)	
35	GERALD ARMSTRONG,	)	DATE: October 6, 1995
36		)	TIME: 11:00 a.m.
37		)	CTRM: Alan Jaroslavsky
38	Defendant.	)	
39		)	

40 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

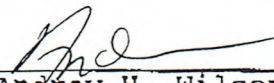
41 PLEASE TAKE NOTICE that on October 6, 1995 at 11:00 a.m.,  
 42 creditor Church of Scientology International ("the Church") will  
 43 and hereby does move, the above-entitled Court, located at 99  
 44 South "E" Street, Santa Rosa, California, 95404-6524, for an

1 order striking the amended answer filed by debtor Gerald  
2 Armstrong.

3 As grounds for this motion, the Church states that  
4 Armstrong's amended answer violates Bankruptcy Rules 7008 and  
5 7012, and Federal Rules of Civil Procedure 8(e) and 12(f), in  
6 that the amended answer consists of allegations which are  
7 immaterial, impertinent and scandalous, but fails to set forth a  
8 short and plain statement of any defense.

9 This application is based this notice of motion, the  
10 accompanying Memorandum of Points and Authorities, and any  
11 argument which may properly come before this court.

12 Dated: September 5, 1995 Respectfully submitted  
13 WILSON, RYAN & CAMPILONGO

14  
15 By:   
16 Andrew H. Wilson

17 Laurie J. Bartilson  
18 BOWLES & MOXON

19 Attorneys for Plaintiff  
20 CHURCH OF SCIENTOLOGY  
21 INTERNATIONAL  
22  
23  
24  
25  
26  
27  
28



WILSON, RYAN & CAMPILONGO  
115 Sansome Street, Suite 400  
San Francisco, California 94104

PROOF OF SERVICE

I declare that I am employed in the City and County of San Francisco, California.

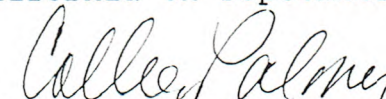
I am over the age of eighteen years and not a party to the within entitled action. My business address is 115 Sansome Street, Suite 400, San Francisco, California.

I am readily familiar with Wilson, Ryan & Campilongo's practice for collection and processing of correspondence for mailing with the United States Postal Service.

On September 6, 1995, I served the attached PLAINTIFF CHURCH OF SCIENTOLOGY INTERNATIONAL'S NOTICE OF MOTION AND MOTION TO STRIKE DEFENDANT GERALD ARMSTRONG'S AMENDED ANSWER and CREDITOR AND PLAINTIFF CHURCH OF SCIENTOLOGY INTERNATIONAL'S MEMORANDUM OF POINTS AND AUTHORITIES IN SUPPORT OF MOTION TO STRIKE DEFENDANT GERALD ARMSTRONG'S AMENDED ANSWER on the following in said cause, by placing for deposit with the United States Postal Service on this day in the ordinary course of business, true copies thereof enclosed in sealed envelopes. The envelopes were addressed as follows:

Office of the United States Trustee 250 Montgomery St., Ste. 1000 San Francisco, CA 94104	Linda Sorenson, Esq. FELDMAN, WALDMAN & KLINE 2700 Russ Building 235 Montgomery St. San Francisco, CA 94104-3160
Gerald Armstrong 715 Sir Francis Drake Blvd. San Anselmo, CA 94960-1949	Jeffrey G. Locke, Trustee P.O. Box 488 Kentfield, CA 94914-0488

I declare under the penalty of perjury under the laws of the State of California that the foregoing is true and correct.  
Executed at San Francisco, California on September 6, 1995.

  
\_\_\_\_\_  
COLLEEN Y. PALMER

1 Andrew H. Wilson  
 2 WILSON, RYAN & CAMPILONGO  
 3 115 Sansome Street  
 4 Fourth Floor  
 5 San Francisco, CA 94104  
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 11 (213) 960-1936

12 Attorneys for Creditor  
 13 CHURCH OF SCIENTOLOGY INTERNATIONAL

14 UNITED STATES BANKRUPTCY COURT

15 NORTHERN DISTRICT OF CALIFORNIA

16	In re	)	CASE NO. 95-10911 aj
17		)	
18	GERALD ARMSTRONG,	)	Chapter 7
19		)	
20	Debtor	)	Adv. No. 95-1164
21		)	
22	<hr/>	)	CREDITOR AND PLAINTIFF
23	CHURCH OF SCIENTOLOGY	)	CHURCH OF SCIENTOLOGY
24	INTERNATIONAL, a California non-	)	INTERNATIONAL'S
25	profit religious corporation,	)	MEMORANDUM OF POINTS
26		)	AND AUTHORITIES IN
27	Plaintiff,	)	SUPPORT OF MOTION TO
28		)	STRIKE DEFENDANT GERALD
29		)	ARMSTRONG'S AMENDED
30	Y:	)	ANSWER
31	GERALD ARMSTRONG,	)	[B.R. 7008; F.R.C.P.
32		)	8(b), (c), (e); B.R.
33	Defendant.	)	7012(b); F.R.C.P.
34	<hr/>	)	12(f)]

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1  
2 I. INTRODUCTION

3 Plaintiff Church of Scientology International ("the Church")  
4 filed a complaint to determine dischargeability and in objection  
5 to the discharge of defendant debtor Gerald Armstrong, after  
6 Armstrong filed a petition for bankruptcy with this Court in  
7 which he claimed to own no stock or interests in incorporated  
8 businesses. Armstrong, however, is the sole shareholder in a  
9 company which he incorporated in 1987, the Gerald Armstrong  
10 Corporation ("GAC") Armstrong claimed under oath in May, 1995,  
11 that the estimated value of GAC's assets was \$1 billion to \$1.5  
12 billion [Ex. A, 545:19 - 549:18].

13 In response to the Church's straightforward complaint,  
14 Armstrong has filed a 40-page answer, which consists of a lengthy  
15 diatribe of scandalous, irrelevant, and ad hominum attacks on  
16 plaintiff, plaintiff's religion, plaintiff's counsel, and the  
17 deceased founder of the Scientology religion; argumentative  
18 "specific denials" which ignore plaintiff's pleading while  
19 repeating his scandalous accusations; and forty-five "affirmative  
20 defenses," which consist solely of titles.

21 In short, the amended answer is not what is required by Rule  
22 8(e): a responsive pleading which is "simple, concise, and  
23 direct." If permitted to stand, the amended answer would allow  
24 literally hundreds of highly prejudicial allegations, all of them  
25 irrelevant to this action, to stand as part of the pleadings,  
26 which are supposed to frame the issues of the litigation.  
27 Armstrong's amended answer should be stricken, pursuant to Rule  
28 12(f), and Armstrong admonished that he, like other litigants, is

1 required to follow the Bankruptcy Rules and the Federal Rules of  
2 Civil Procedure in this Court.

3 **II. STATEMENT OF FACTS**

4 Debtor Armstrong filed his petition in bankruptcy on April  
5 19, 1995. Thereafter, creditor Church of Scientology  
6 International filed a motion for relief from stay, in order to  
7 pursue to its conclusion a pending state court action for breach  
8 of contract. That motion was granted by this Court on May 25,  
9 1995. In the state case, potentially dispositive motions for  
10 summary adjudication are pending, and scheduled to be heard on  
11 September 29, 1995.

12 On July 11, 1995, the Church filed an adversary petition  
13 with this Court, seeking a determination (1) that Armstrong's  
14 debts are not dischargeable pursuant to 11 U.S.C. § 727(a)(4)(A);  
15 (2) that Armstrong's debts are not dischargeable pursuant to 11  
16 U.S.C. § 727(a)(5); and (3) that Armstrong's debt to the Church  
17 is not dischargeable pursuant to 11 U.S.C. § 523(a)(2). The  
18 basis for the Church's complaint is simple and straightforward:  
19 Armstrong failed to disclose substantial assets in his petition  
20 for bankruptcy or, if the assets were dissipated prior to filing,  
21 has no adequate explanation for their dissipation, and Armstrong  
22 entered into the underlying agreement with the Church by fraud  
23 and deceit. [Complaint, paras. 21, 26-29, 31-37.]<sup>1</sup>

24 \_\_\_\_\_  
25 <sup>1</sup> The evidence supporting plaintiff's claims is also simple and  
26 straightforward: inter alia, Armstrong's testimony under oath  
27 concerning the ownership and value of the asset in question  
28 (interest in the Gerald Armstrong Corporation); Armstrong's  
contract with the Church [Exhibit A to the Complaint]; judicial  
orders enforcing the contract; and a videotape, made at the time

1 On August 14, 1995, Armstrong filed an answer to the  
2 Complaint. This initial document consisted of a 20-page  
3 narrative titled "Introduction" and "History," a listing of the  
4 titles of 45 "Affirmative Defenses," and a single sentence  
5 "General Denial." On August 18, 1995, Armstrong amended his  
6 answer. The amended answer includes all of the material in the  
7 original answer, and adds a 17-page series of "Specific Denials,"  
8 making it 40 pages in length.

9 The answer lacks connection both to the issues of the  
10 complaint. The "Introduction" and "History" consist of a  
11 rambling, disjointed narrative in which Armstrong purports to  
12 describe, in the most vituperative terms imaginable, his views,  
13 feelings, beliefs, and arguments about his former religion and  
14 its Founder; the plaintiff and its leaders; the plaintiffs'  
15 lawyers; and all of the judges who have in the past ruled against  
16 him. The material covers, roughly, Armstrong's allegations about  
17 his religious experiences in and with Scientology (from 1969 to  
18 1982); his personal characterization of the Scientology religion;  
19 his viewpoint that the Church and each of its members is "evil"  
20 and "neo-satanic;" and his opinion that all of his actions are  
21 divinely inspired and constitutionally protected. None of this  
22 material is responsive to any allegation contained in the  
23 complaint, nor is it material to any issue presented by this  
24 case.

25 Much of the text of the 17 pages of "Specific Denials" is  
26 \_\_\_\_\_  
27 that the contract was signed, in which Armstrong made the false  
28 representations.

1 repetition of the allegations contained in the narrative portions  
2 of the answer, coupled with denials or admissions of some parts  
3 of the allegations contained in the Complaint.

4 While burying the Court with extraneous and irrelevant  
5 allegations, Armstrong has simultaneously failed to make specific  
6 allegations which he is required to make. For example, contrary  
7 to B.R. Rule 7012(b), Armstrong refuses to admit or deny that  
8 this is a core proceeding. [Amended Answer, ¶ 2.] He has also  
9 listed by name 45 "affirmative defenses," but he has made no  
10 allegations concerning any of them, as required by F.R.Civ.P.  
11 8(c).

### 12 III. ARGUMENT

13 Rule 12(f) provides that a court may strike "any  
14 insufficient defense or any redundant, immaterial, impertinent or  
15 scandalous matter." Rule 8(b) provides that a defendant "shall  
16 state in short and plain terms the party's defenses to each claim  
17 asserted, and shall admit or deny the averments upon which the  
18 adverse party relies." Rule 8(e) provides that, "[e]ach averment  
19 of a pleading shall be simple, concise and direct." These rules,  
20 and the cases interpreting them, provide the ample authority for  
21 the relief which the Church seeks.

#### 22 A. Armstrong's Answer Should Be Stricken Because It Consists 23 Almost Entirely Of Allegations Which Are Impertinent, Immaterial, And Scandalous

24 "The function of a 12(f) motion to strike is to avoid the  
25 expenditure of time and money that must arise from litigating  
26 spurious issues by dispensing with those issues prior to  
27 trial. . . ." Fantasy, Inc. v. Fogerty, 984 F.2d 1524, 1527 (9th  
28



1 Cir. 1993) quoting Sidney-Vinsein v. A.H. Robbins Co., 697 F.2d  
2 880, 885 (9th Cir. 1983). In Fogerty, the Ninth Circuit  
3 delineated some of the types of material which is properly the  
4 subject of a motion to dismiss:

5 "Immaterial" matter is that which has no essential  
6 or important relationship to the claim for relief or  
7 the defenses being pleaded. "Impertinent" matter  
8 consists of statements that do not pertain, and are not  
9 necessary, to the issues in question. Superfluous  
10 historical allegations are a proper subject of a motion  
11 to strike.

12 697 F.2d at 1527 (citations omitted, emphasis supplied).

13 In Fogerty, the defendant to a copyright claim included  
14 lengthy historical allegations in his answer, and argued that he  
15 was trying to show a "pattern of abuse" to support his claim that  
16 the plaintiff had breached a music publishing agreement,  
17 justifying his own breaches. The district court ordered the  
18 allegations stricken, and the Ninth Circuit upheld the decision,  
19 noting that the district court had correctly found that the  
20 lengthy historical allegations, rather than providing  
21 "foundational facts" or "background," as claimed by the  
22 defendant, "created serious risks of prejudice to [plaintiff],  
23 delay and confusion of the issues." Id at 1528. The allegations,  
24 like those made here, "consisted of stale and barred charges that  
25 had already been extensively litigated, and would have been  
26 burdensome" for the plaintiff to respond to. Id. Further, the  
27 court noted, the stricken allegations would have "unnecessarily  
28 complicated the trial of the copyright claim. . . potentially  
adding weeks to the trial." Id. Each of these reasons supported  
the trial court's granting of plaintiff's motion to strike.

1 Allegations are stricken even more readily by courts if they  
2 are "scandalous" in addition to being immaterial. "Allegations  
3 may be stricken as scandalous if the matter bears no possible  
4 relation to the controversy or may cause the objecting party  
5 prejudice." Talbot v. Robert Matthews Distributing Co., 961 F.2d  
6 654, 664 (7th Cir. 1992) (Striking allegations in a labor action  
7 that the defendants had intentionally caused an outbreak of  
8 salmonella poisoning). Moreover, "Rule 8(e) demands conciseness  
9 in pleading. Courts will not permit a party to use his pleadings  
10 as a dumping ground for that evidence which he may not otherwise  
11 be able to present to the trier of the facts." Budget Dress  
12 Corp. v. International Ladies' Garment Workers' Union, AFL-CIO 25  
13 F.R.D. 506, 508 (S.D.N.Y. 1959) (Striking allegations in answer,  
14 made "with gruesome and evidentiary detail," of conspiracies  
15 between plaintiff and "racketeers").

16 Nor does a litigant's pro se status give him carte blanche  
17 to use the Court's files as a "dumping ground." In Stanfield v.  
18 Horn, 704 F. Supp. 1486 (M.D. Tenn. 1988), for example, a law  
19 student who failed the bar exam brought a civil rights action  
20 against various state officers pro se. When the magistrate  
21 issued a report recommending that the case be dismissed for lack  
22 of subject matter jurisdiction, the plaintiff filed a 117-page  
23 objection to the magistrate's report which vigorously attacked  
24 the magistrate, claiming that he had "deliberately, willfully,  
25 intentionally and wrongfully distorted, misrepresented, falsified  
26 and misinterpreted" the facts of her case. Id. at 1486. Noting  
27 that, "[a] scandalous matter is that which improperly casts a  
28

1 derogatory light on someone, most typically a party to the  
2 action" the court found that the plaintiff's pleadings were  
3 "indecent and violative of every rule of pleading and should not  
4 be permitted to pollute the records of the Court." Id. at 1487.  
5 The Objection was stricken in toto. Accord, Ex Parte Tyler, 70  
6 F.R.D. 456 (E.D.Mo. 1976) (Pro se complaint containing  
7 "immaterial, impertinent or scandalous matter" stricken in  
8 toto.); Mahurin v. Moss, 313 F.Supp. 1263 (E.D. Mo. 1970)  
9 (Allegations in "incoherent, rambling and largely unintelligible"  
10 pro se complaint that certain defendants were gangsters  
11 controlled by the Mafia stricken under Rule 12(f)).

12 Here, Armstrong has presented an answer which consists  
13 almost entirely of allegations which are, rambling, disjointed,  
14 immaterial, impertinent and scandalous, by any definition. He  
15 begins his amended answer with a 4-page "introduction" and a 16-  
16 page "history" which do not address any of the issues presented  
17 in the complaint, and which do not set forth any concise  
18 statement of a defense. Rather, these pages comprise a lengthy  
19 and scandalous diatribe, viciously attacking the Church<sup>2</sup>, the  
20  
21

22 <sup>2</sup> For example, Armstrong falsely alleges that plaintiff Church,  
23 "has a reputation in its legal affairs for dirty tricks, threat,  
24 dishonesty, deception, attrition and overwhelm which is widely  
25 known and feared by this country's attorneys and by the media."  
26 Am. Answer at 3; that the Church, "also has a widely known  
27 reputation for using bullying and dishonest private investigators  
28 to harass perceived opponents pursuant to 'fair game' and for  
shielding their aggressive and corrupt activities behind the work  
product privilege of corrupt attorneys." Id.; and that the Church  
obtained its tax exempt status (which was the result of the most  
extensive IRS investigation of any church in the history of this  
country), by "illegal means." Id. at 20.

1 founder of the Scientology religion,<sup>3</sup> its present ecclesiastical  
2 leaders,<sup>4</sup> its religious philosophy,<sup>5</sup> its attorneys,<sup>6</sup> and even  
3 judges who have ruled against him,<sup>7</sup> while simultaneously  
4 proclaiming that Armstrong is divinely inspired in his words and  
5 actions.<sup>8</sup> These allegations are reiterated and repeated

6  
7  
8 <sup>3</sup> Armstrong, for example, falsely alleges that Mr. Hubbard, who  
9 has been dead for nearly 10 years, was "paranoid,"  
10 "schizophrenic," Id. at 1; a "pathological liar," "greedy,"  
11 "lustful of power," and "vindictive," Id. at 1, 7; a bigamist,  
12 id., a drug addict, id. at 8, and a neo-satanist, id. at 6.

13  
14 <sup>4</sup> Armstrong, for example, falsely accuses current Scientology  
15 religious leaders of "harassing" him, by "judicial enforcement of  
16 an illegal and evil contract," Id. at 3; "subjecting" him to a  
17 "campaign of covert and over character assassination," Id.; and  
18 "involvement" "in white collar crime, including securities scams  
19 and extortion." Id. at 20.

20  
21 <sup>5</sup> Armstrong falsely proclaims, for example, that Scientology, an  
22 established world religion with millions of adherents, is "neo-  
23 satanic," id. at 3, 18, "anti-Christian," id. at 4, and a  
24 "religious fraud," id. at 19.

25  
26 <sup>6</sup> Armstrong refers to Scientology's counsel as "corrupt," Id. at  
27 3, and falsely accuses that one of the attorneys representing the  
28 Church in this action, Laurie Bartilson, of executing false  
statements concerning him, because she is allegedly, "completely  
under the power of David Miscavige." Id. at 20.

29  
30 <sup>7</sup> For example, Armstrong falsely alleges that the Honorable Gary  
31 Thomas was "deceived," after "forum shopping" by the Church, into  
32 holding that Armstrong's contract with the Church was valid and  
33 enforceable, and that this ruling was "false," "obnoxious" and  
34 "evil." Id. at 16.

35  
36 <sup>8</sup> Armstrong alleges, for example, that, "God in this litigation  
37 is pointing out gently that He is in charge," Id., at 21; indeed,  
38 according to Armstrong, God is responsible for Armstrong's  
39 failure to include his ownership of the Gerald Armstrong  
40 Corporation on his petition for bankruptcy, id. at 36. Armstrong  
41 alleges that God told him to give away all of his assets in 1990,  
42 id. at 27 -30, and claims that God gave him something he calls  
43 "the Unified Field," which he considers to be "mathematical proof  
44 of God's guidance." Id. at 34. He claims that all of his actions  
45 "are religiously motivated and completely protected by this  
46 country's and state's constitutions." Id. at 21.

1 throughout the "Specific Denials," rendering those "denials" an  
2 unintelligible diatribe against the "evils" that Armstrong  
3 perceives rather than a series of specific responses to  
4 allegations in the Complaint.

5 None of these allegations have any material bearing on the  
6 instant action. Most describe Armstrong's thoughts, reactions,  
7 ideas and viewpoints which he acquired in (variously) 1969, 1984,  
8 1986, and 1990. They bear no relationship to whether or not  
9 Armstrong made a false declaration in connection with his  
10 bankruptcy in May, 1995, or whether Armstrong made false  
11 representations when he entered into a contract with the Church,  
12 rendering his present obligation to the Church nondischargeable.  
13 Those are the issues presented by the complaint in this court.  
14 Questions concerning the validity of the contract in question and  
15 the amount of Armstrong's obligation are being determined by the  
16 state court action, which Armstrong interrupted with his petition  
17 for bankruptcy, and concerning which the bankruptcy stay has been  
18 lifted. Like the "history" of "stale and barred charges" alleged  
19 in Fogerty, supra, Armstrong's religious history and bitter  
20 hatred for his former religion do not present legitimate  
21 questions to be determined in this (or any) Court, and  
22 Armstrong's expression of them is unequivocally prejudicial to  
23 plaintiff. Not only are these unsupported and insupportable  
24 allegations vicious in their scandalous attacks against plaintiff  
25 and anyone associated with plaintiff, but the presentation of  
26 evidence concerning these allegations would lengthen the trial in  
27 this action by many months.

28

1 **B. Armstrong's Affirmative Defenses Must Be Stricken Because**  
2 **They Are Insufficient On Their Face**

3 Federal Rule of Civil Procedure 12(f) also provides that  
4 "the court may order stricken from any pleading any insufficient  
5 defense. . . ." Affirmative defenses, like claims, "must meet  
6 the pleading requirements of Fed.Civ.P. 8(a)." Flasza v. TNT  
7 Holland Motor Express, Inc., 155 F.R.D. 612, 613 (N.D.Ill.1994).  
8 Accordingly, "affirmative defenses must set forth a 'short and  
9 plain statement' of the defense asserted. If an affirmative  
10 defense is insufficient on its face, or comprises no more than  
11 'bare bones conclusory allegations,' it must be stricken." Id. at  
12 613-614 (emphasis supplied).

13 Here, Armstrong has listed 45 "affirmative defenses" by  
14 number and title (e.g., "SIXTH AFFIRMATIVE DEFENSE (Fraud and  
15 Deceit)."). He has not made "bare bones conclusory" allegations  
16 to support the defenses -- he has made no allegations to support  
17 the defenses. It is just as if plaintiff had filed a complaint  
18 stating "FIRST CLAIM FOR RELIEF (For a Determination That  
19 Armstrong's Debts Are Not Dischargeable)" and nothing more after  
20 that. Needless to say, this gives plaintiff insufficient notice  
21 of what facts Armstrong is relying on to support his defensive  
22 claims. Indeed, many of the "defenses" are completely  
23 inapplicable in an action simply challenging the discharge of a  
24 bankruptcy.<sup>9</sup> Such a complaint would be insufficient on its face,

25 \_\_\_\_\_  
26 <sup>9</sup>For instance, Armstrong claims such defenses as, "This Court  
27 Cannot Enjoin the Practice of a Profession," "Unclean Hands,"  
28 "Estoppel," "Fraud and Deceit," "Waiver," "Impossibility," "First  
Amendment -- Religion," "First Amendment -- Press," "Due  
Process," and a score of others, none of which are applicable to

1 and Armstrong's defenses are insufficient on their face.  
2 Pursuant to Rule 12(f), supra, they, too, should be stricken.

3 IV. CONCLUSION

4 For the reasons set forth above, Armstrong's answer must be  
5 stricken as "immaterial, impertinent and scandalous," pursuant to  
6 Rule 12(f). His affirmative defenses utterly fail to meet  
7 applicable pleading requirements and should also be stricken.

8 Dated: September 5, 1995 Respectfully submitted

9 WILSON, RYAN & CAMPILONGO

10  
11 By: Andrew H. Wilson

12 Laurie J. Bartilson  
13 BOWLES & MOXON

14 Attorneys for Plaintiff  
15 CHURCH OF SCIENTOLOGY  
16 INTERNATIONAL

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plaintiff's claims.

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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
IN AND FOR THE COUNTY OF LOS ANGELES

---oOo---

CHURCH OF SCIENTOLOGY )  
INTERNATIONAL, a California )  
not-for-profit religious )  
corporation, )  
 )  
Plaintiff, )  
 )  
vs. )  
 )  
GERALD ARMSTRONG; DOES )  
1 through 25, inclusive, )  
 )  
Defendants. )  
\_\_\_\_\_ )

**CERTIFIED**  
**COPIES**

Case No. BC 052395

DEPOSITION OF  
GERALD ARMSTRONG  
VOLUME V  
PAGES 525 - 624

\_\_\_\_\_

WEDNESDAY, MARCH 10, 1993

REPORTED BY: LYNN P. NYLUND, CSR NO. 3696

Mary Hillabrand, Inc.  
520 Sutter Street  
San Francisco, CA 94102

Ex. A



1 answer any more questions on the subject, so that's the  
2 area. That's what I am entitled to and that is another  
3 question.

4 What was the value of the real property that  
5 you gave away in August of 1990?

6 A. I don't know.

7 Q. How much real property did you give away in  
8 August of 1990?

9 A. I was on title on one property.

10 Q. Where was that located?

11 A. 707 Fawn Drive.

12 Q. To whom did you convey it?

13 A. Michael Walton.

14 Q. Did you live at 707 Fawn Drive?

15 A. Yes.

16 Q. Did you continue to live there after you  
17 conveyed the title to him?

18 A. Off and on.

19 Q. What was the value of the stocks that you  
20 gave away in August of 1990?

21 A. A million.

22 Q. To whom did you give the stocks?

23 A. I decline to answer that.

24 Q. Were the stocks stocks in public-traded  
25 corporations?

1 A. No.

2 Q. Private corporations?

3 A. Yes.

4 Q. What corporations?

5 A. It is The Gerald Armstrong Corporation.

6 Q. How did you ascertain the value of those  
7 stocks at one million dollars?

8 A. Through a logical assessment of the value of  
9 the assets.

10 Q. Did you have any kind of independent  
11 appraiser appraise the value of the stocks or the  
12 underlying assets?

13 A. No, as to that transaction.

14 Q. Did you do that at some other point in time?

15 A. I have had pieces of work evaluated.

16 Q. Is this pieces of work that were property of  
17 the Gerald Armstrong Corporation?

18 A. Correct.

19 Q. When did you have those pieces of work  
20 evaluated?

21 A. Some time in the past.

22 Q. Before or after August of 1990?

23 A. Before.

24 Q. And the individual pieces of work that you  
25 had evaluated prior to August of 1990 were all still in

1 the custody and assets of The Gerald Armstrong  
2 Corporation in August of 1990?

3 A. Well, not -- not some of them.

4 Q. Does that mean that some were and some were  
5 not?

6 A. Correct. Some were and some weren't.

7 Q. Okay. Those works that were still in the  
8 custody of The Gerald Armstrong Corporation August of  
9 1990 that you had evaluated, what was the appraised value  
10 of those works?

11 A. \$900,000.

12 Q. Did you get a written appraisal?

13 A. No.

14 Q. Who performed the evaluation for you?

15 A. I decline to say.

16 Q. What was the nature of the work that you had  
17 evaluated?

18 A. Artistic and literary.

19 Q. Were you the author of the works?

20 A. For the most part, yes.

21 Q. What happened to the work that you had  
22 evaluated that was not still property of the Armstrong  
23 Corporation in August of 1990?

24 A. I don't know what ultimately happened to it,  
25 but I know that it was stolen from the trunk of my car by

1 your organization and that it ended up in the hands of  
2 David Miscavige, so you know where it is and I don't.

3 Q. When did you have evaluated the work that  
4 you allege was stolen from the trunk of your car?

5 A. Sometime prior to its theft.

6 Q. Do you remember the date?

7 A. Not specifically.

8 Q. Do you remember the year?

9 A. 1984.

10 Q. Who evaluated it?

11 A. I decline to say.

12 Q. What do you claim the evaluator appraised  
13 its monetary value as?

14 A. \$50,000.

15 Q. Did you receive a written appraisal or  
16 evaluation from the person who evaluated it?

17 A. No.

18 Q. Was it someone other than yourself?

19 A. No.

20 Q. So that's the value that you placed on it?

21 A. Oh, I am sorry. Yes, it was.

22 Q. Yes, it was. And you are changing your  
23 previous answer. Yes, it was someone other than you?

24 A. Someone other than myself.

25 Q. Whose name you won't tell me?

1 A. Yes.

2 Q. Was it the same person who evaluated the  
3 works at \$900,000?

4 A. No.

5 Q. What year were the other works that you say  
6 were evaluated at \$900,000 evaluated?

7 A. I think '89.

8 Q. Are these still works -- works still the  
9 property of The Gerald Armstrong Corporation?

10 A. Most of them.

11 Q. What happened to the works that are not any  
12 longer property of The Gerald Armstrong Corporation?

13 A. The corporation gave them to me. I --  
14 that's other than the ones which were taken.

15 Q. So what is the value of the evaluated amount  
16 attributed to the works that still remain the property of  
17 The Gerald Armstrong Corporation?

18 A. I think they are close to 1.5 billion.

19 Q. And who's evaluated them at that amount?

20 A. I did.

21 Q. Did you have any independent appraiser  
22 evaluate your amount?

23 A. No.

24 Q. So that's your estimate of their worth?

25 A. Right.